NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Baywatch Security and Investigations *and* International Guard Union of America, Local 80, Region 8. Case 16–CA–21440

May 7, 2002

DECISION AND ORDER

BY MEMBERS LIEBMAN, COWEN, AND BARTLETT

The General Counsel, in this case, seeks summary judgment on the ground that the Respondent has failed to answer the complaint. Upon a charge filed by the Union on September 27, 2001, the Regional Director issued the complaint on December 20, 2001, against Baywatch Security and Investigations, the Respondent. The complaint alleges that the Respondent has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On January 28, 2002, the General Counsel filed a Motion for Summary Judgment with the Board. On February 1, 2002, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the December 20, 2001 complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that, on January 11, 2002, the Region informed the Respondent, by telephone, that no answer to the complaint had been filed, and that, if the Region did not receive an answer by January 18, 2002, a Motion for Summary Judgment would be filed. On January 18, 2002, the Region informed the Respondent, by faxed letter, that it would file the Motion for Summary Judgment unless the Respondent contacted the Regional Office by noon on January 21, 2002. On January 21, 2002, the Respondent left a message on the Region's voice mail asking the Region to go elsewhere to obtain the information for the answer to the complaint. The Respondent has not returned the Region's telephone calls since that date.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times the Respondent, a Texas corporation with an office and place of business in Houston, Texas, has been engaged in the provision of security services. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business operations has been engaged in the provision of security services to the United States Department of the Army's Longhorn Army Ammunition Plant. The Respondent has a substantial impact on the national defense of the United States. Further, the Respondent has purchased and received at its Houston, Texas facility goods valued in excess of \$5000 directly from points outside the State of Texas.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

INCLUDED: All security officers at the Long-horn plant.

EXCLUDED: All other employees.

On April 21, 1964, the Union was certified as the exclusive collective-bargaining representative of the unit. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

On about August 28, 2001, the Union, by letter, equested that the Respondent furnish the Union with the following information:

- (a) An accounting for each employee of the funds in his pension plan;
- (b) Where the pension plans are established;
- (c) The amount of interest that has accrued in each account since March 15, 1999; and
- (d) Why the Savings and Investment Plan has never been established.

The information requested by the Union is relevant and necessary to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit. Since about April 4, 2001, the Respondent has failed and refused to provide the Union with the information requested by it.

CONCLUSION OF LAW

By failing and refusing to provide the Union with requested information that is relevant and necessary to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed since April 4, 2001, to provide the Union with information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees, we shall order the Respondent to provide the Union with the information it requested.

ORDER

The National Labor Relations Board orders that the Respondent, Baywatch Security and Investigations, Houston, Texas, its officers, agents, successors, and assigns, shall

- 1. Cease and desist from
- (a) Failing and refusing to provide the Union with information that is relevant and necessary to the performance of its duties as the exclusive representative of the employees in the unit below:

INCLUDED: All security officers at the Longhorn plant.

EXCLUDED: All other employees.

- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
- 2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Provide the Union with the information that it requested on August 28, 2001.
- (b) Within 14 days after service by the Region, post at its facility in Houston, Texas, copies of the attached no-

tice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 4, 2001.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. May 7, 2002

Wilma B. Liebman,		Member	
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*******	D. C.	37. 1	
William B. Cowen,		Member	
Michael J. Bartlett,		Member	
(SEAL)	NATIONAL LABOR RELATIONS BOARD		

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join or assist a union Choose representatives to bargain with us on your behalf

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail to provide the International Guard Union of America, Local 80, Region 8 a/w International Guard Union of America with information that is relevant and necessary to the performance of its duties as the exclusive representative of the employees in the following unit:

INCLUDED: All security officers at the Longhorn plant.

EXCLUDED: All other employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL NOT provide to the Union with the information that it requested on August 28, 2001.

BAYWATCH SECURITY AND INVESTIGATIONS